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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,595	11/26/2003	Donald Wanek	33655/US	7576

7590 02/15/2006
Sean D. Soleberg
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498

EXAMINER

NOLAND, THOMAS

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.		Applicant(s)	
	10/723,595		WANEK ET AL.	
	Examiner		Art Unit	
	Thomas P. Noland		2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11 and 13 is/are rejected.
- 7) ☒ Claim(s) 4 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election without traverse of the invention of claims 1-13 in the reply filed on Dec. 7, 2005 is acknowledged.
2. The restriction requirement is made final.
3. Claim 14 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on Dec. 7, 2005.

4. Applicant is requested to cancel claim 14 in any response hereto.
5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what structural limitation is being claimed that would allow the claimed vibration damping feature.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, 6-8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al US 5,739,411.

Note abstract and Figs. 1 and 10. Base 1, 1a has rails 12 coupled thereto. A top component 6 is coupled to the rails. Interposer structure includes elements such as 8 and 17, coupled to the rails, and interfacing elements 19 and 45 which contact the object 110 being tested. There appears to be room to allow air flow as claimed. The rigid structure and the floor support elements would appear to help damp out vibrations inherently as claimed.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-3, 5-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/087211 A2 Wanek et al 87211 in view of WO 01/09627 A2 Wanek et al 9627.

Wanek et al 87211 as seen from its abstract and Fig. 2A show a test fixture substantially as claimed but does not show a top component coupled to the rails. However such is shown in the similar test fixture of Wanek et al 9627 as evident from the abstract and Figs. 1 and 2A therein. It would have been obvious to have included such a component in a test fixture similar to that of Wanek et al 87211 to provide additional support for the test fixture or to add components such as those carried by Wanek et al 9627 to the test fixture. Note Wanek et al 87211 shows the use of rollers 30 in the rails. Wanek et al 9627 shows in Fig. 1 brace and air flow structure as

claimed. Use of such in a system similar to that of Wanek et al 87211 would have been obvious to aid in structural integrity and to increase air flow. If not inherent from the supporting structure taught in both Wanek et al 87211 and 9627 it would have been obvious to add additional damping features to achieve Golden fixture standard since that is known to be the desired standard.

11. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 11/086,781, published as Sands et al US 2005/0225338. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 herein claims no element not claimed in claim 6 of 11/086,781 since the connection component in base claim 1 of 11/086,781 can be considered to be an interposer as claimed in claim 1 herein and thus claim 1 herein is broader in every respect than claim 6 of 11/086,781. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 2856

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show test fixtures.

14. Claims 4 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

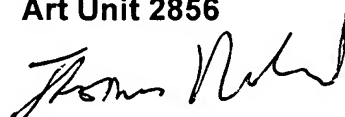
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (571) 272-2202. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (571) 272-2208.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2800 Customer Service at (571) 272-2815.

Thomas P. Noland
Primary Examiner
Art Unit 2856



Feb. 13, 2005